

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GROW'S MARINE, INC. , et al.,

Plaintiffs,

Hon. Gordon J. Quist

v.

Case No. 1:08-cv-01120

AMERICAN HONDA MOTOR CO.,
INC. ,

Defendant.

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REPORT AND RECOMMENDATION

The undersigned had two separate settlement conferences in this matter, the most recent was on July 1, 2010 (Dkt. 59). The undersigned further has had two separate status conferences with all parties, including dismissed party Babbitt's Sports Center, LLC, on July 27, 2010 and August 13, 2010 (Dkts. 62 and 63). The parties reported on August 13, 2010 that a settlement had been reached among American Honda Motor Co., Inc., Grow's Marine, Inc. and previously dismissed party Babbitt's Sports Center, LLC. In the August 13, 2010 telephone conference, counsel for Plaintiff Grow's Marine, Inc., Edward A. Newmeyer, reiterated his client's intent not to proceed with the further litigation of this matter.

Intervenor American Honda Finance Corporation claims an interest in any proceeds Plaintiffs Grow's Marine, Inc. receives under the settlement agreement. American Honda Finance Corporation has a \$818,915.40 plus interest judgment against Grow's Marine, Inc. and its former principal, Richard Sly. It further takes the position that Grow's Marine, Inc. is prohibited from

giving a release to American Honda Motor Co., Inc. pursuant to an August 11, 2010 order entered by the Hon. James M. Grave, Jr., Muskegon County Circuit Judge for the 14th Circuit Court, in Case No. 09-46430-CK. A copy of that order is attached to this Report and Recommendation as Exhibit 1.

In any event, American Honda Finance Corporation conceded that it could not force Plaintiff to litigate a case in federal court if it chose not to do so. It further conceded that any remedy it had was in the Muskegon County Circuit Court.

Therefore, the Court recommends that this matter be dismissed with prejudice and without costs to any party.

Date: August 19, 2010

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge